

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 221 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and  
MR.JUSTICE A.K.TRIVEDI

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

-----  
SHANKARBHAI NARSIBHAI TANDEL

Versus

DAHAYABHAI MOHANBHAI

-----  
Appearance:

MR BM MANGUKIYA for Petitioner  
NOTICE SERVED for Respondent No. 1  
NOTICE UNSERVED for Respondent No. 2  
Mr. L.R. Pujari, A.P.P. for Respondent No. 5

-----  
CORAM : MR.JUSTICE B.C.PATEL and  
MR.JUSTICE A.K.TRIVEDI

Date of decision: 15/04/99

ORAL JUDGEMENT( Per B.C.Patel,J.)

The informant has preferred this Revision Application as the accused who were tried by the learned

Additional Sessions Judge, Valsad at Navsari in Sessions Case no.84/95 for offences punishable under Sections 302, 504, 323 and 324 read with Sec.114 of the Indian Penal Code have been acquitted by the judgment and order dated 21st May, 1997.

The information was lodged before the Police in the early hours at 6.45 a.m. on 21-2-1995. The incident took place at 22.30 hours on 20-2-1995. It has been inter alia alleged that when deceased Ukabhai and injured Laxmanbhai were engaged in repairs of fishing net, information was received that accident has taken place wherein Jivanbhai and his son Bhaveshbai sustained the injuries, that when they were passing at about 10.30 p.m. near the house of Dalabhai Chikabhai, the accused assaulted the deceased. It appears that there was altercation and the incident in question took place. After completion of investigation, charg-sheet was filed in the Court of the learned Chief Judicial Magistrate, , Navsari, against the accused. After committing, the charge was framed against the accused to which the accused pleaded not guilty and claimed to be tried.

On appreciation of evidence oral as well as documentary and considering the submissions made by the learned Counsel, the trial Court acquitted the accused. Against the order of acquittal, State has not preferred any appeal. The trial Court has considered that the complaint is filed too late and there is inconsistent evidence of the witnesses. So far as the injuries sustained by the accused is concerned, trial Court observed that prosecution has not explained the injuries sustained by the accused. The medical evidence and the oral evidence being inconsistent and the injuries sustained by the accused having been not explained, the trial Court did not accept the evidence. The clothes put on by injured Ishwarbhai were seized by the police. The allegation was to the effect that the person had put on banian, jersy, sweater and pant and if knife blow is delivered there will be cut marks on the clothes, but no cut marks were found. The incident took place at about 10.30 p.m. There was no proper explanation as to why the police was not informed. The Doctor available in the village was not called for treatment. Considering several infirmities, the trial Court has thought it fit not to rely on the prosecution evidence and acquitted the accused. Under these circumstance, we would not like to interfere in the order passed by the learned Additional Sessions Judge, Valsad at Navsari at the instance of the informant. Hence this Criminal Revision Application is rejected

\*\*\*\*\*

stanley-bcp.